

SENATE BILL 788

P3

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CF HB 1638

By: **Senators Kagan, Bates, Feldman, Guzzone, ~~Kelley~~, King, Klausmeier, Lee, Madaleno, Ready, Smith, and Young**

Introduced and read first time: February 5, 2018

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 16, 2018

CHAPTER _____

1 AN ACT concerning

2 **Public Information Act – Revisions**

3 FOR the purpose of providing that, except as otherwise provided by law, the Public
4 Information Act does not authorize a custodian of records to allow the inspection of
5 the Social Security number or date of birth of an individual except to a person in
6 interest; requiring, except under certain circumstances, a custodian to deny
7 inspection of the part of a personal surveillance video regarding an incident that
8 depicts certain individuals or information or does not result in certain actions;
9 requiring a custodian to deny inspection of certain records regardless of a subsequent
10 action taken by law enforcement or a court resulting from the incident recorded;
11 requiring that a victim who is the subject of a record that is denied inspection under
12 certain provisions of this Act be notified of all requests to inspect the record;
13 requiring the Maryland Police Training and Standards Commission to develop
14 certain standards and procedures in consultation with certain groups; requiring a
15 custodian, except as otherwise provided in certain provisions of law, to allow
16 inspection of a recording from a personal surveillance video by a person in interest;
17 prohibiting a custodian from allowing copying of a recording from a personal
18 surveillance video under certain circumstances; requiring a custodian to deny
19 inspection of a certain distribution list and a request to be added to a certain
20 distribution list; providing for the application and construction of certain provisions
21 of this Act; defining certain terms; and generally relating to the Public Information
22 Act.

23 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – General Provisions
2 Section 4–101 and 4–103
3 Annotated Code of Maryland
4 (2014 Volume and 2017 Supplement)

5 BY adding to
6 Article – General Provisions
7 Section 4–327.1 and 4–341
8 Annotated Code of Maryland
9 (2014 Volume and 2017 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
11 That the Laws of Maryland read as follows:

12 **Article – General Provisions**

13 4–101.

14 (a) In this title the following words have the meanings indicated.

15 (b) “Applicant” means a person or governmental unit that asks to inspect a public
16 record.

17 (c) “Board” means the State Public Information Act Compliance Board.

18 (d) “Custodian” means:

19 (1) the official custodian; or

20 (2) any other authorized individual who has physical custody and control
21 of a public record.

22 (e) “News media” means:

23 (1) newspapers;

24 (2) magazines;

25 (3) journals;

26 (4) press associations;

27 (5) news agencies;

28 (6) wire services;

29 (7) radio;

1 (8) television; and

2 (9) any printed, photographic, mechanical, or electronic means of
3 disseminating news and information to the public.

4 (f) “Official custodian” means an officer or employee of the State or of a political
5 subdivision who is responsible for keeping a public record, whether or not the officer or
6 employee has physical custody and control of the public record.

7 (g) “Person in interest” means:

8 (1) a person or governmental unit that is the subject of a public record or a
9 designee of the person or governmental unit;

10 (2) if the person has a legal disability, the parent or legal representative of
11 the person; or

12 (3) as to requests for correction of certificates of death under § 5–310(d)(2)
13 of the Health – General Article, the spouse, adult child, parent, adult sibling, grandparent,
14 or guardian of the person of the deceased at the time of the deceased’s death.

15 (h) (1) “Personal information” means information that identifies an individual.

16 (2) Except as provided in § 4–355 of this title, “personal information”
17 includes an individual’s:

18 (i) name;

19 (ii) address;

20 (iii) driver’s license number or any other identification number;

21 (iv) medical or disability information;

22 (v) photograph or computer-generated image;

23 (vi) Social Security number; and

24 (vii) telephone number.

25 (3) “Personal information” does not include an individual’s:

26 (i) driver’s status;

27 (ii) driving offenses;

- 1 (iii) five-digit zip code; or
- 2 (iv) information on vehicular accidents.

3 (I) (1) **“PERSONAL SURVEILLANCE VIDEO” MEANS AUDIO OR VIDEO**
4 **RECORDED BY A DEVICE ATTACHED TO OR DESIGNED TO FOLLOW A LAW**
5 **ENFORCEMENT OFFICER, A FIREFIGHTER, AN EMERGENCY MEDICAL TECHNICIAN,**
6 **OR AN EMPLOYEE OF A UNIT OR AN INSTRUMENTALITY OF THE STATE OR A**
7 **POLITICAL SUBDIVISION.**

8 (2) **“PERSONAL SURVEILLANCE VIDEO” INCLUDES VIDEO AND AUDIO**
9 **RECORDED BY:**

10 (I) **A BODY-WORN DIGITAL RECORDING DEVICE; OR**

11 (II) **A DRONE OR ROBOT FOLLOWING AN INDIVIDUAL LISTED IN**
12 **PARAGRAPH (1) OF THIS SUBSECTION.**

13 (3) **“PERSONAL SURVEILLANCE VIDEO” DOES NOT INCLUDE VIDEO**
14 **AND AUDIO RECORDED BY:**

15 (I) **A CAMERA MOUNTED ON AN AUTOMOBILE, A TRUCK, OR A**
16 **SIMILAR VEHICLE; OR**

17 (II) **A SURVEILLANCE CAMERA MOUNTED AT A STATIONARY**
18 **LOCATION.**

19 [(i)] (J) **“Political subdivision” means:**

- 20 (1) a county;
- 21 (2) a municipal corporation;
- 22 (3) an unincorporated town;
- 23 (4) a school district; or
- 24 (5) a special district.

25 [(j)] (K) (1) **“Public record” means the original or any copy of any**
26 **documentary material that:**

27 (i) is made by a unit or an instrumentality of the State or of a
28 political subdivision or received by the unit or instrumentality in connection with the
29 transaction of public business; and

1 (ii) is in any form, including:

- 2 1. a card;
- 3 2. a computerized record;
- 4 3. correspondence;
- 5 4. a drawing;
- 6 5. film or microfilm;
- 7 6. a form;
- 8 7. a map;
- 9 8. a photograph or photostat;
- 10 9. a recording; or
- 11 10. a tape.

12 (2) "Public record" includes a document that lists the salary of an employee
13 of a unit or an instrumentality of the State or of a political subdivision.

14 (3) "Public record" does not include a digital photographic image or
15 signature of an individual, or the actual stored data of the image or signature, recorded by
16 the Motor Vehicle Administration.

17 4-103.

18 (a) All persons are entitled to have access to information about the affairs of
19 government and the official acts of public officials and employees.

20 (b) To carry out the right set forth in subsection (a) of this section, unless an
21 unwarranted invasion of the privacy of a person in interest would result, this title shall be
22 construed in favor of allowing inspection of a public record, with the least cost and least
23 delay to the person or governmental unit that requests the inspection.

24 (c) This title does not preclude a member of the General Assembly from acquiring
25 the names and addresses of and statistical information about individuals who are licensed
26 or, as required by a State law, registered.

27 **(D) EXCEPT AS OTHERWISE PROVIDED BY LAW, THIS TITLE DOES NOT**
28 **AUTHORIZE A CUSTODIAN TO ALLOW THE INSPECTION OF THE SOCIAL SECURITY**

1 NUMBER OR DATE OF BIRTH OF AN INDIVIDUAL, WHETHER OR NOT THE INDIVIDUAL
2 IS DECEASED, EXCEPT TO A PERSON IN INTEREST.

3 4-327.1.

4 (A) (1) THIS SECTION DOES NOT APPLY TO A PUBLIC RECORD THAT HAS
5 BEEN ENTERED INTO EVIDENCE IN A COURT PROCEEDING.

6 (2) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT THE
7 DISCOVERY OR EVIDENTIARY RIGHTS OF A PARTY TO A CIVIL SUIT OR CRIMINAL
8 PROSECUTION.

9 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
10 CUSTODIAN SHALL DENY INSPECTION OF THAT PART OF A PERSONAL
11 SURVEILLANCE VIDEO REGARDING AN INCIDENT THAT:

12 (I) DEPICTS A VICTIM OR INFORMATION THAT COULD IDENTIFY
13 A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN § 4-701 OF THE FAMILY LAW
14 ARTICLE;

15 (II) DEPICTS A VICTIM OR INFORMATION THAT COULD IDENTIFY
16 A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

17 (III) DEPICTS A VICTIM OR INFORMATION THAT COULD IDENTIFY
18 A VICTIM OF, EXCEPT FOR A VIOLATION OF § 3-607 OF THE CRIMINAL LAW ARTICLE
19 WHERE THE VICTIM IS AN ADULT, A VIOLATION OF TITLE 3, SUBTITLE 6 OF THE
20 CRIMINAL LAW ARTICLE;

21 (IV) DEPICTS THE DEATH OF A LAW ENFORCEMENT OFFICER, A
22 FIREFIGHTER, AN EMERGENCY MEDICAL TECHNICIAN, OR AN EMPLOYEE OF A UNIT
23 OR AN INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION THAT
24 OCCURRED IN THE PERFORMANCE OF THE INDIVIDUAL'S DUTIES; ~~OR~~

25 (V) DEPICTS AN INDIVIDUAL DURING A SEARCH OF THE
26 INDIVIDUAL'S HOME THAT DOES NOT RESULT IN AN ARREST; OR

27 ~~(V)~~ (VI) DOES NOT RESULT IN:

28 1. THE ARREST, ATTEMPTED ARREST, TEMPORARY
29 DETENTION, ATTEMPTED TEMPORARY DETENTION, SEARCH, ATTEMPTED SEARCH,
30 CITATION, DEATH, OR INJURY OF AN INDIVIDUAL;

31 2. THE USE OF FORCE AGAINST AN INDIVIDUAL; OR

1 **3. A COMPLAINT OR ALLEGATION OF OFFICER**
2 **MISCONDUCT MADE AGAINST ANY LAW ENFORCEMENT OFFICER INVOLVED IN THE**
3 **INCIDENT.**

4 **(2) A CUSTODIAN SHALL DENY INSPECTION OF RECORDS AS**
5 **REQUIRED BY THIS SUBSECTION REGARDLESS OF A SUBSEQUENT ACTION TAKEN BY**
6 **LAW ENFORCEMENT OR A COURT RESULTING FROM THE INCIDENT RECORDED.**

7 **(3) (I) A VICTIM WHO IS THE SUBJECT OF A RECORD THAT IS**
8 **DENIED INSPECTION UNDER PARAGRAPH (1)(I), (II), OR (III) OF THIS SUBSECTION**
9 **SHALL BE NOTIFIED OF ALL REQUESTS TO INSPECT THE RECORD.**

10 **(II) THE MARYLAND POLICE TRAINING AND STANDARDS**
11 **COMMISSION, IN CONSULTATION WITH THE MARYLAND ASSOCIATION OF**
12 **COUNTIES, THE MARYLAND MUNICIPAL LEAGUE, LAW ENFORCEMENT AGENCIES,**
13 **THE PRESS, VICTIM RIGHTS ADVOCATES, A GROUP DEDICATED TO CIVIL LIBERTIES,**
14 **AND OTHER STAKEHOLDERS, SHALL DEVELOP UNIFORM STANDARDS AND**
15 **PROCEDURES TO CARRY OUT THE PROVISIONS OF THIS PARAGRAPH.**

16 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT**
17 **AS OTHERWISE PROVIDED IN THIS SUBTITLE, A CUSTODIAN SHALL ALLOW**
18 **INSPECTION OF A RECORDING FROM A PERSONAL SURVEILLANCE VIDEO BY A**
19 **PERSON IN INTEREST.**

20 **(2) A CUSTODIAN MAY NOT ALLOW COPYING OF A RECORDING FROM**
21 **A PERSONAL SURVEILLANCE VIDEO IF:**

22 **(I) THE PERSON IN INTEREST IS UNDER INVESTIGATION FOR,**
23 **CHARGED WITH, RECEIVED PROBATION BEFORE JUDGMENT FOR, IS SUBJECT TO A**
24 **PEACE OR PROTECTIVE ORDER AS A RESULT OF, PLEADED NOLO CONTENDERE TO,**
25 **PLEADED GUILTY TO, OR HAS BEEN FOUND GUILTY OF A VIOLATION DESCRIBED IN**
26 **SUBSECTION ~~(A)~~ (B)(1)(I), (II), OR (III) OF THIS SECTION IF THE RECORDING IS OF**
27 **THE INCIDENT LEADING TO THE INVESTIGATION, PROBATION BEFORE JUDGMENT,**
28 **ORDER, CHARGE, PLEA, OR VERDICT; AND**

29 **(II) THE RECORDING IS OF THE INCIDENT LEADING TO THE**
30 **INVESTIGATION, PROBATION BEFORE JUDGMENT, ORDER, CHARGE, PLEA, OR**
31 **VERDICT.**

32 **4-341.**

33 **(A) IN THIS SECTION, “GOVERNMENTAL ENTITY” MEANS A UNIT OR AN**
34 **INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION.**

1 **(B) A CUSTODIAN SHALL DENY INSPECTION OF A DISTRIBUTION LIST AND A**
2 **REQUEST TO BE ADDED TO A DISTRIBUTION LIST THAT IDENTIFIES A PHYSICAL**
3 **ADDRESS, AN ELECTRONIC MAIL ADDRESS, OR A TELEPHONE NUMBER OF AN**
4 **INDIVIDUAL THAT IS USED BY A GOVERNMENTAL ENTITY OR AN ELECTED OFFICIAL**
5 **FOR THE SOLE PURPOSE OF:**

6 **(1) PERIODICALLY SENDING NEWS ABOUT THE OFFICIAL ACTIVITIES**
7 **OF THE GOVERNMENTAL ENTITY OR ELECTED OFFICIAL; OR**

8 **(2) SENDING INFORMATIONAL NOTICES OR EMERGENCY ALERTS.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 June 1, 2018.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.